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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,196	03/24/2004	Naoto Kinjo	Q78011	3755

23373 7590 06/12/2006

SUGHRUE MION, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
SUITE 800  
WASHINGTON, DC 20037

EXAMINER
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SAIN, GAUTAM

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/807,196	Applicant(s) KINJO, NAOTO	
	Examiner Gautam Sain	Art Unit 2176	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 2, 4 and 7-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5, 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

- 1) This is a nonfinal rejection in response to the Election filed on 5/4/06.
- 2) Claims 1, 3, 5 and 6 are rejected.
- 3) Effective filing date is 3/25/2003.

***Election/Restrictions***

4) Applicant's election without traverse of Claim 2, 4, 7, 8, 9, 10 and 11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/4/06.

Applicant's election without traverse of claims 1, 3, 5 and 6 in the reply filed on 5/4/06 is acknowledged.

***Claim Rejections - 35 USC § 101***

- 5) 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5-1) Claims 1, 3, 5 and 6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1, 3, 5 and 6 set forth functional descriptive material but fail to set forth physical structures or materials comprising of hardware or a combination of hardware and software within the technological arts (i.e. a computer) to produce a "useful, concrete and tangible" result. For example, the language such as "message recording" does not clearly define structural elements and are not tangibly embodied on a computer readable medium.

Claims 1, 3, 5 and 6 are interpreted as software per se, abstract ideas or mental constructs and not tangibly embodied on a computer readable medium or hardware.

***Claim Rejections - 35 USC § 102***

6) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**6-1) Claims 1, 3, 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Wilcock et al (US 6741864, filed Feb 20, 2001).**

**Regarding claim 1, Wilcock teaches *article identification means*.** For example, Wilcock discloses associating image and location data (title), that provides location stamping of digital photos and contains meta data records with fields, where one of the fields is a Photo ID which is a unique photo ID provided by the album program and can is made up of a load batch number assigned for each session of downloading data from a camera and a number-in-batch identifying the photo from others in the same batch (col 4, lines 38-53).

Wilcock teaches *related information input means and a message recording means*. For example, Wilcock discloses other meta data fields such as camera ID, user ID, album ID and description that is either supplied automatically by the camera or is added by the user (col 4, lines 38-54). The meta data are downloaded to a PC where

the album program serves to store the photos in a photo store. The meta data is stored in the meta data database (col 3, lines 55-63; see Fig 1, items 3 and 8; Fig 3, items 8, 9 and 10).

Wilcock does not expressly say the literal word teach "*article*", but does teach the concept of the article as Wilcock's photos are images that are interpreted as articles. The Examiner interprets the claimed literal word "article" to mean just "a thing" and Wilcock's photos are "a thing".

**Regarding claim 3**, Wilcock teaches *position information acquisition means*. For example, Wilcock discloses associating image and location data (title), that provides location stamping of digital photos and contains meta data records with fields, where one of the fields is a Photo ID which is a unique photo ID provided by the album program and can be made up of a load batch number assigned for each session of downloading data from a camera and a number-in-batch identifying the photo from others in the same batch (col 4, lines 38-53).

Wilcock teaches *related information input means and a message recording means*. For example, Wilcock discloses other meta data fields such as camera ID, user ID, album ID and description that is either supplied automatically by the camera or is added by the user (col 4, lines 38-54). The meta data are downloaded to a PC where the album program serves to store the photos in a photo store. The meta data is stored in the meta data database (col 3, lines 55-63; see Fig 1, items 3 and 8; Fig 3, items 8, 9 and 10).

Wilcock does not expressly say the literal word teach "*article*", but does teach the concept of the article as Wilcock's photos are images that are interpreted as articles. The Examiner interprets the claimed literal word "article" to mean just "a thing" and Wilcock's photos are "a thing".

**Regarding claim 5**, Wilcock teaches *photographic means*. For example, Wilcock discloses associating image and location data (title), that provides using a camera to take image recordings/photos (col 2, lines 27-28).

Wilcock teaches *an integrated circuit tag sensor; photography instructions means*. For example, Wilcock discloses location-tagged digital photographs with map-based digital photograph albums in association with taking each of the image recordings using a mobile device that associates with a mobile radio infrastructure that is separate from the camera to provide location data indicative of the location at which the image recording was taken using GPS technology (col 2, lines 48-54; col 1, line 22 shows GPS; col 1, lines 49-52);

Wilcock teaches *position information recognition means*. For example, Wilcock discloses associating image and location data (title), that provides location stamping of digital photos and contains meta data records with fields, where one of the fields is a Photo ID which is a unique photo ID provided by the album program and can be made up of a load batch number assigned for each session of downloading data from a camera and a number-in-batch identifying the photo from others in the same batch (col 4, lines 38-53).

Wilcock teaches *related information input means and a message recording means*. For example, Wilcock discloses other meta data fields such as camera ID, user ID, album ID and description that is either supplied automatically by the camera or is added by the user (col 4, lines 38-54). The meta data are downloaded to a PC where the album program serves to store the photos in a photo store. The meta data is stored in the meta data database (col 3, lines 55-63; see Fig 1, items 3 and 8; Fig 3, items 8, 9 and 10).

Wilcock does not expressly say the literal word teach "content", but does teach the concept of the content as Wilcock's photos are images that are interpreted as content. The Examiner interprets the claimed literal word "content" to mean just "a thing" and Wilcock's photos are "a thing".

**Regarding claim 6**, Wilcock teaches *detection means; position information recognition means*. For example, Wilcock discloses associating image and location data (title), that provides location stamping of digital photos and contains meta data records with fields, where location data is provided with the photo by camera (col 4, lines 58-59), where the location data can be derived from a GPS system by using information obtained from a cellular radio system (col 1, lines 22-24). The album enables a user to view their photographs through a map-based interface where the photos are represented on a displayed map by a marker indicating the location they were taken (col 3, lines 63-67).

Wilcock teaches *related information input means and a message recording means*. For example, Wilcock discloses other meta data fields such as camera ID, user ID, album ID and description that is either supplied automatically by the camera or is

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added by the user (col 4, lines 38-54). The meta data are downloaded to a PC where the album program serves to store the photos in a photo store. The meta data is stored in the meta data database (col 3, lines 55-63; see Fig 1, items 3 and 8; Fig 3, items 8, 9 and 10).

Wilcock does not expressly say the literal word teach "*message*", but does teach the concept of the message as Wilcock's photos are images that are interpreted as message. The Examiner interprets the claimed literal word "message" to mean just "a thing" and Wilcock's photos are "a thing".

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam Sain whose telephone number is 571-272-4096. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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HEATHER R. HERNDON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100